

19 SEPTEMBER 1947

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I N D E X
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EXHIBITS

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
2212	3196		Affidavit of UGAKI, Kazushige		28866
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1 Friday, 19 September 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE R. B. PAL, Member
15 from India, HONORABLE JUSTICE I. M. ZARYANOV, Member
16 from the U. S. S. R. and HONORABLE JUSTICE HENRI
17 BERNARD, Member from the Republic of France, not sitting
18 from 0930 to 1600.

19 For the Prosecution Section, same as before.

20 For the Defense Section, same as before.

21 - - -

22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: With the permission of the
4 Tribunal, the accused SATO and TOGO will be absent
5 from the courtroom for the whole of the morning session
6 conferring with counsel.

7 Major Moore.

8 LANGUAGE ARBITER (Major Moore): If the
9 Tribunal please, we submit the following language
10 corrections:

11 Exhibit 3173, record page 28,557, line 6,
12 after "over" insert "the disposition of."

13 Line 20, delete from "He was" to line 25,
14 "matter of necessity" and substitute "When I met the
15 General at the time of the withdrawal from the League
16 of Nations he said that it was decided at the cabinet
17 meeting not to withdraw but as a result of the pro-
18 ceedings of the conference at Geneva withdrawal took
19 place."
20

21 Exhibit 3192, record page 28,770, line 11,
22 delete the entire line and substitute "While the
23 light was still dim, as day had not yet fully dawned..."
24

25 THE PRESIDENT: Mr. Tavenner.

- - -

1 KINGORO HASHIMOTO, an accused,
2 resumed the stand and testified through
3 Japanese interpreters as follows:

4 CROSS-EXAMINATION

5 BY MR. TAVENNER: (Continued):

6 Q Colonel HASHIMOTO, yesterday you told us
7 in reply to an interrogation as to whether or not you
8 wanted the British to get out of the sphere, that you,
9 not knowing what the interrogator meant, impatiently
10 replied yes. Now, is it not true that in an article
11 entitled "Short-cutting Remarks on the Present Situation"
12 appearing in the June 1, 1939, issue of the "Taiyo
13 Dai-Nippon" you stated: "Are we as one: Expulsion
14 of England? The enemy that blocks our way to the south
15 is England." Is that not correct?

16 A Yes.

17 A And on January 11, 1941, did you not publicly
18 state: "Rise up resolutely. The time approaches.
19 Begin a sweeping campaign against sympathizers of
20 England and America, and at the same time start a move-
21 ment to inspire moral support of Advance Southward
22 Program throughout the country." Is that not true?

23 A Yes.

24 Q And did you not also state publicly on
25 January 30, 1941, that Japan should embrace the

1 continent of Asia and seize control of the Pacific
2 Ocean, and that Great Britain and Soviet Russia would
3 count for nothing? Is that not true?

4 A Yes, I did.

5 Q Now, by this movement to the south and by
6 this seizure of the Pacific Ocean, did you mean the
7 seizure of Singapore?

8 A Of course.

9 Q The seizure of Burma?

10 A That I did not say.

11 Q The extension of your control to the Persian
12 Gulf?

13 A Yes, I did.

14 Q The establishment of naval bases in Australia?

15 A Yes.

16 Q The extension of your control to New Zealand?

17 A Yes.

18 Q The Aleutian Islands?

19 A Yes.

20 Q And parts of the Soviet Union?

21 A I advocated the inclusion of a part of the
22 USSR -- the territory of the Soviet Union in the
23 Greater East Asia Co-Prosperity Sphere.

24 Q And also the Philippines and the Hawaiian
25 Islands?

1 A Yes, I did.

2 MR. TAVENNER: Now, will the Marshall please:
3 hand to the witness again exhibit 2188. I desire to
4 refer the witness to two excerpts in this document.
5 The first one is rather long; the second one is very
6 short.

7 Q There will be pointed out to you that part
8 of the exhibit beginning with the question: "You
9 published a book, did you not, or were you author of
10 it, entitled 'Inevitability of the Renovation'?"

11 THE MONITOR: What page is this, Mr. Tavenner?

12 MR. TAVENNER: Page 15,687 of the transcript.

13 If I may say to the Language Section, it is
14 on page 6 of the English; that is, the English copy
15 of the exhibit.

16 THE MONITOR: Thank you. Mr. Tavenner, does
17 your assistant have the page in Japanese? It will be
18 easier for us to find the page that way.

19 MR. TAVENNER: Page 12 of the Japanese trans-
20 lation.

21 THE MONITOR: Thank you, sir.

22 MR. TAVENNER: I am not going to read it, so
23 it is not necessary for you, probably, to look it up.

24 THE MONITOR: Will you repeat Mr. Tavenner's
25 question, please?

1 (Whereupon, the question was read
2 by the official court reporter as follows:

3 Q There will be pointed out to you that part
4 of the exhibit beginning with the question: "You
5 published a book, did you not, or were you author
6 of it, entitled 'Inevitability of the Renovation'?"

7 A That is a book published by me.
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1 Q I would like for you to examine the ques-
2 tions appearing after that and the answers attributed
3 to you down to the following question appearing on
4 page 23 of the Japanese translation: "Now, will you
5 state just what position you held in the IRAA at this
6 time?" This question appears on page 15,695 of the
7 transcript.

8 Colonel HASHIMOTO, these questions and
9 answers have been pointed out to you in the original
10 Japanese translation. Will you state whether or not
11 you made the answers attributed to you there?

12 A When I published this book I was one of the
13 members of the IRAA.

14 Q Will you examine the questions and answers
15 beginning at the place pointed out to you, and which
16 I mentioned, down to the question that I referred to
17 regarding the IRAA, and tell me whether those ques-
18 tions were propounded to you and you made the answers
19 attributed to you?

20 A When I was asked whether this book was
21 published while I was one of the officers of the IRAA
22 I replied yes. But the contents of the essay published
23 in the book were all essays published by the Japan
24 Loyalty Society, a collection of articles written for
25 the Japan Loyalty Society.

1 Q You apparently have misunderstood my ques-
2 tion, Colonel HASHIMOTO. I am merely asking you to
3 state whether or not those questions were asked you
4 and whether or not the answers attributed to you
5 were made by you from page 12 to page 23 of the
6 Japanese text as pointed out to you.

7 A They cover so many pages I do not happen
8 to have the time.

9 THE PRESIDENT: Mr. Tavenner, where an
10 accused's answer is tendered by the prosecution and
11 the accused goes into the box and does not challenge
12 the accuracy of the answer as tendered, do you feel
13 that you have an obligation to get his confirmation
14 of such an answer?

15 MR. TAVENNER: Normally, I would not, but it
16 is only because of the peculiar situation with regard
17 to interrogatories that I desire to re-affirm those
18 answers.

19 THE PRESIDENT: But he does not state, as
20 ARAKI stated, that he was not correctly reported by
21 the interrogators. If you expect him to confirm one
22 answer, why not ask him to confirm them all, and that
23 would mean in all cases where interrogations have been
24 made?
25

 MR. TAVENNER: The only reason I did not

1 follow that course was because of the time that it
2 would take to examine each question and answer.

3 THE PRESIDENT: I do not know what the
4 practice is in your country, but in my country it
5 would not be necessary to do this.

6 MR. TAVENNER: The only purpose in doing
7 it is to make certain that there is no question about
8 the effect of the decision regarding declarations
9 made after the completion -- the termination of the
10 conspiracy, and I am confining myself entirely to
11 those matters which do not otherwise appear in
12 evidence.

13 THE PRESIDENT: We will leave it at that,
14 Mr. Tavenner. You may have reasons for this which
15 are not obvious to me yet.

16 MR. TAVENNER: I am very nearly at the end
17 of it. I believe by now the witness has examined
18 those questions and answers.

19 A Generally speaking, with the exception of
20 the opinions set forth by the interrogating prosecutor,
21 all the other things I wrote myself.

22 Q Then your answers to the questions propounded
23 to you are true?

24 A Yes.

25 Q Now, I desire to refer to only one other

1 excerpt from this affidavit. It is the question and
2 answer appearing at page 15,703 of the transcript and
3 page 32 of the Japanese translation. The question and
4 answer will be pointed out. The question begins with
5 the words: "I will direct your attention to Chap-
6 ter 7 ..."

7 "Will you state whether or not that question
8 was asked you and whether or not the answer attributed
9 to you is correct?

10 A What interpretations the prosecutor who
11 interrogated me regarding these essays, that is, the
12 prosecutor's interpretations of the contents of my
13 essay are not correct, but what I personally wrote are
14 correct.

15 Q If there is anything in this question pro-
16 pounded to you which is not correct, will you point
17 it out?

18 A Generally, the substance is correct, but
19 inasmuch as I am unable to contrast the Japanese and
20 the English texts I am unable to vouch for the English --
21 inasmuch as the prosecutor asked questions in English
22 and I am unable to contrast the English and the Japanese
23 I cannot vouch for the accuracy of the English.
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1 Q Will you examine the Japanese that appears
2 before you and tell us whether that is substantially
3 a correct statement?

4 A The prosecutor read my essays and asked me
5 such and such about them, or is it not such and such,
6 etc. But, what he asked me were not based on a literal
7 translation of what I wrote.

8 Q Well, I am asking you a very simple question,
9 Colonel HASHIMOTO. Read the question as it appears
10 there and state whether that is substantially correct.

11 A The contents of the essays incorporated in the
12 questions are generally as I wrote, although I am unable
13 to say now just where the differences lie in the con-
14 tents of the question referring to my essay and my
15 essays themselves.

16 Q I would like for the witness to examine
17 prosecution exhibit 675.

18 MR. TAVENNER: This is an exhibit put in evidence
19 for reference only.

20 Q (Continuing) I would like for you, Colonel
21 HASHIMOTO, to look at the marked portion in the December
22 5th, 1939 issue of the Taiyo Dai Nippon at an article
23 entitled "Forge Ahead Towards the Formation of East
24 Asia Bloc, Guide for Solution of Japanese-American Issue,
25 President HASHIMOTO, Kingoro."

1 Did you write that article?

2 A Yes.

3 MR. TAVENNER: Then, if the Tribunal please,
4 I would like that article read in evidence. The
5 Translation Pool has a copy of the excerpt from the
6 Japanese text and I have the English. I desire to read
7 the translation of this excerpt which has been marked
8 and pointed out.

9 (Reading):

10 "Open Door and Equal Opportunity should be
11 permitted only outside the pale of achievement of Japan-
12 Manchukuo-China Bloc Economic Self-Supply and Self-
13 Sufficiency to the minimum. If our policy runs counter
14 to the 9-Power Pact, the pact should be disavowed out-
15 right as a shackle obstructing the existence of East
16 Asia."

17 Q Colonel HASHIMOTO, what position did you hold
18 in the I.R.A.A.?

19 A One of the managers.

20 Q Were you one of the committee of organizers?

21 A I was one of several ~~tens~~ of organizers who
22 participated on the invitation of Prince KONOYE.

23 Q What other connection did you have with the
24 I.R.A.A.?

25 A I was once the Director of the Headquarters

1 of the Manhood Corps which was a subsidiary of the
2 I.R.A.A.

3 Q Now, were you also an official in the I.R.A.P.S.?

4 A Yes.

5 Q Tell us what that was? Will you state what
6 your position was in the I.R.A.P.S.?

7 A At first for a very brief time a manager.

8 Q Over how long a period were you connected with
9 the I.R.A.P.S.?

10 A The International Rule Assistance Political
11 Society was established in 1941 -- no, in July, 1942 --
12 and I think it was -- it continued until some time in
13 1944.

14 THE MONITOR: "The International Rule" should
15 be "The Imperial Rule."

16 Q And you were connected with it during that
17 period of time?

18 A Yes.

19 Q Yesterday, in your testimony, you stated that
20 no anti-Russian problems were discussed at the Conference
21 of Military Attaches in Berlin. As a matter of fact,
22 was not the first item on the agenda of the Conference
23 entirely devoted to sabotage and espionage against
24 Russia?

25 A No, such was not the case, but the topic came

1 up.

2 Q What was the last phrase?

3 THE INTERPRETER: The subject came up, or the
4 topic came up.

5 THE PRESIDENT: How many attaches attended?

6 THE WITNESS: Japanese military attaches of
7 Embassies in Great Britain, Germany, France, Poland,
8 Russia, Austria, Turkey and Italy.

9 MR. TAVENNER: I refer the Tribunal to prose-
10 cution exhibit 732-A, page 7,658-9.

11 Q Did you not address the Conference of Military
12 Attaches, proposing that the White Guard Emigrant Press
13 be used for the purpose of intelligence activities
14 against the U.S.S.R.?

15 A I may have, but I do not recall.

16 Q Did you not also propose that the Trotskyites
17 exiled from the U.S.S.R. be used for espionage against
18 the U.S.S.R.?

19 A I have no recollection.
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1 Q You stated yesterday in cross-examination
2 that you alone were involved in the October Incident.
3 You also stated that "we" decided that civilians were
4 not to be employed in this incident. To whom were
5 you referring when you said "we"?

6 A Myself, ISAMU Cho, and at that time there
7 were about ten others that were apprehended, but do
8 you wish me to give you the names of all of them?

9 Q Yes. And their official positions.

10 A Captain MANAGI, a member of the General
11 Staff office; Lieutenant TANAKA, attached to the
12 General Staff office; Lieutenant AMANO, the same as
13 the above; Lieutenant Colonel NEMOTO, Chief of the
14 China Section; Lieutenant NODA, an officer attached
15 to a regiment; in all, there were about nine, but
16 their ranks were lieutenant or captain.

17 Q Will you give me again the name of TANAKA?

18 A TANAKA Wataru.

19 Q Is he the same TANAKA who prepared the secret
20 report of the operations of the Sakura Kai?

21 A No. What do you mean by "secret report"?
22 Is it the one appearing in one of the documents?

23 Q Yes, document 183.

24 A But, the TANAKA I am referring to is not the
25 TANAKA you are talking about.

1 Q What is the first name of the TANAKA who
2 made the secret report regarding the Sakuru Kai?

3 A TANAKA Kiyoshi.

4 MR. TAVENNER: Will the Tribunal bear with
5 me just a moment?

6 If the Tribunal please, because of the ab-
7 sence of the paper I thought I had with me, I will
8 have to proceed to another matter and come back to it.

9 THE PRESIDENT: Yes.

10 MR. TAVENNER: At this time, I will make
11 references to certain prosecution evidence.

12 With regard to section 9 of the affidavit,
13 relating to the Sakura Kai, reference is made to
14 prosecution exhibit 183, beginning at page 2,188, and
15 the testimony appearing at pages 1,963, 1,966, and
16 1,978.

17 With regard to sections 11 and 12, reference
18 is made to exhibit 2177-A, beginning at page 15,560,
19 with special reference to pages 15,573, 15,575,
20 15,578, 15,580 to 15,583, and 15,585 to 15,587;
21 and also exhibit 2178-B, commencing at page 15,591,
22 and exhibit 183, beginning at page 2,188, with special
23 reference to page 2,191.

24 As to section 16 of the affidavit, reference
25 is made to exhibit 954-C, page 9,451.

1 With reference to sections 6 and 7, dealing
2 with publications made by the accused, I refer to the
3 following prosecution exhibits: Exhibit 2185, pages
4 15,648 to 15,663; exhibit 2187, page 15,669; exhibit
5 2188, page 15,674, 15,693, and 15,701; exhibit 1290-A,
6 page 11,689; exhibit 675-A, page 7,348 and page
7 12,022; exhibit 264, page 3,531; and exhibit 177,
8 page 1,918.

9 BY MR. TAVENNER (Continued):

10 Q Now, Colonel HASHIMOTO, returning now to our
11 discussion of the TANAKA who prepared the secret
12 report of the Sakura Kai Society, will you please give
13 us his first name again?

14 A TANAKA Kiyoshi.

15 Q Was he a major at that time? I mean, at the
16 time of the organization of the Sakura Kai, and --

17 A I think he was a captain.

18 Q Do you know when he became a major?

19 A I do not know.

20 Q Do you recall a conversation that you had
21 with Major TANAKA, the one to whom we have just re-
22 ferred, on August 4, 1931, in which you said to him,
23 "About the middle of September this year, a plot is
24 expected to be laid by the Kwantung Army. An oppor-
25 tunity of solving the Manchurian-Mongolian problem

1 shall be made, and our country shall be radically
2 reformed at the same time -- "

3 A (In Japanese)

4 Q Just a moment. I haven't finished. "--and
5 as to the reform of the country, the brains of the
6 General Staff had reached a thorough understanding."

7 A I have never said such a thing.
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1 Q In an early exhibit in the case, exhibit 105,
2 it was shown that on April 29, 1934 you were decorated
3 with the Middle Cordon of the Rising Sun in recognition
4 of service during the disturbances from the year 1931
5 to 1934. Was that for your contribution to the Man-
6 churian Incident?

7 A I received it because -- I received the
8 medal because I went to Manchuria as a member of the
9 garrison there.

10 Q Did you go there in 1931?

11 A I went there in 1932.

12 MR. TAVENNER: There are no further ques-
13 tions, if the Tribunal please.

14 THE PRESIDENT: Captain Brooks.

15 MR. BROOKS: I would like to ask a few ques-
16 tions on behalf of General KOISO.

17 REDIRECT EXAMINATION

18 BY MR. BROOKS:

19 Q Now, Colonel HASHIMOTO, on record page 28,820,
20 in the middle of the page, you are discussing the mis-
21 takes in exhibit 2188, page 2 thereof. This exhibit
22 2188, for the Court's information, also appears at
23 record page 15,676 of the record.

24 You have stated that the question as asked
25 was "Who was connected with the March and October

1 incidents?" instead of "Who planned them?"

2 I will now read you the preceding question
3 and answer that was skipped, at line 20 of page 15,676,
4 and I wish to ask if this is the correct question and
5 answer and one of the ones you were referring to. I
6 read from page 2 of the prosecution's interrogation
7 of 18 February 1946:

8 "Q And the March incident was planned by this
9 same group that planned the October incident, wasn't
10 it?

11 "A I could not call them all the same."

12 Now, to confirm this reference, I want to go
13 to the skipped portion on page 15,677, line 8, and
14 read you two or three questions and answers referred
15 to by you as being on pages in your testimony previous-
16 ly at 28,820. Reading from page 3 of the prosecution's
17 interrogation of 18 February 1946, there appears a
18 number of pages of testimony that should go into the
19 omitted space at line 8, the first of which is:

20 "Q General TOJO?

21 "A No, no connection.

22 "Q Colonel, those names you have given us are
23 those that actually planned these two incidents with
24 you?

25 "A No, these are the people involved in the March

1 incident."

2 Involved in what way, in reference to General
3 KOISO?

4 A As I said yesterday.

5 Q You mean by that just merely arranging to get
6 the bombs back, to put an end to the plot?

7 A Yes.

8 THE PRESIDENT: None of us were under any mis-
9 apprehension about that, Captain Brooks.

10 MR. BROOKS: I did not want to take any chance
11 that some of you might have been, your Honor.

12 THE PRESIDENT: I mean misapprehension as to
13 what he said yesterday.

14 MR. BROOKS: I thought your Honor meant that
15 KOISO was involved in the plot, in planning it.

16 In that case, I will go on. There are other
17 questions that will be relevant.

18 THE PRESIDENT: If we give you time to consider
19 some of these questions, you may be able to put them
20 in much shorter and clearer form.

21 We will recess now for fifteen minutes.

22 (Whereupon, at 1040, a recess was
23 taken until 1100, after which the proceed-
24 ings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Captain Brooks.

4 MR. BROOKS: I wish to call the Tribunal's
5 attention to the fact that, between line 7 and 9 on
6 record page 15,677 the omitted portion marked by
7 stars at line 8 consists of the balance of page 3 of
8 the prosecution's interrogation to the next to the
9 last question on page 14 of said interrogatory where
10 the question at line 9, page 15,677 appears. And I
11 wish to submit that this testimony on these eleven
12 intervening pages substantiates HASHIMOTO's statement
13 appearing on record page 28,820, especially at line
14 17 thereof, and also his testimony at record page
15 28,795.

16 THE PRESIDENT: This is not the time for
17 such submissions, Captain Brooks.

18 MR. BROOKS: I have carefully checked the
19 intervening questions, and I think that what he has
20 said already on the record is substantially the
21 same. Therefore, I will avoid asking those questions
22 and refer back to the record.

23 THE PRESIDENT: Counsellor HAYASHI.

24 MR. HAYASHI: I wish to make a reexamina-
25 tion of the witness.

REDIRECT EXAMINATION (Continued)

1 BY MR. HAYASHI:

2 Q Mr. Witness, in your testimony yesterday
3 you stated you were made to confirm court evidence
4 2,138 concerning the Ladybird.
5

6 THE MONITOR: Yesterday, Mr. Witness, you
7 were asked by the prosecution to confirm a question
8 and answer pertaining to an order issued by General
9 YANAGAWA contained in exhibit 2188. Now, Mr. Wit-
10 ness, were you asked by the prosecution at any other
11 time with regard to the Ladybird?

12 A I explained to Mr. Robinson, the prosecutor,
13 the fact that the shelling of the gunboat was made
14 by a mistake because of a thick mist; and, further-
15 more, I gave additional explanation of the general
16 situation there by illustrating with a map which I
17 drew for him.

18 Q Then will you please explain the heavy mist
19 on the day of the shelling of the Ladybird?
20

21 A It was a mist peculiar to the winter which
22 made heavy overcast over the Yangtze, and it appeared
23 as if steam was rising out of the waters of the
24 river. The mist over the land was not as dense as
25 that. At that time we were using the Japanese stand-
ard time, and, therefore, dawn was around 0800 hours.

1 Q Had the day already broken when the attack
2 began?

3 A It was slightly dark because of the mist.

4 Q Why did you not order the then commander,
5 OBATA, to attack all vessels regardless of registry?
6 Correction: Why did you not relay the order of
7 General YANAGAWA instructing that all vessels should
8 be attacked regardless of nationality to battalion
9 commander OBATA?

10 THE PRESIDENT: Mr. Tavenner.

11 MR. TAVENNER: If it please the Tribunal,
12 this is nothing arising out of cross-examination.

13 THE PRESIDENT: It is all new matter. We
14 might well give him permission on that first ques-
15 tion. This is something entirely different. The
16 objection is upheld.

17 Q Mr. Witness, did you instruct anyone to
18 investigate the incident concerning the Ladybird?

19 MR. TAVENNER: The same objection, if the
20 Tribunal please.

21 THE PRESIDENT: Counsel knows that he is
22 infringing the rules because he is grinning about
23 it. The objection is upheld.

24 Q In your testimony yesterday, Mr. Witness,
25 you stated that General TATEKAWA was the Chief of

1 the First Division of the General Headquarters --
2 the General Staff; is that so?

3 A That was a mistake in my memory. He was
4 Chief of the Second Division of the General Staff
5 Headquarters.

6 Q What were the duties of the Chief of the
7 Second Division of the General Staff Headquarters?

8 A Collection of intelligence.

9 Q Mr. Witness, were any of your books or
10 articles written in your capacity as manager of
11 the IRAA?

12 A No. There are none written in that capac-
13 ity.

14 Q This morning, Mr. Witness, you gave names
15 of people connected with the October Incident. Was
16 the name of WACHI, Takaji among them?

17 A He was apprehended together with me.

18 MR. HAYASHI: This concludes the reexamina-
19 tion.

20 MR. HARRIS: Mr. President, this concludes
21 the presentation of evidence on behalf -- may I ask
22 first that the witness be released?

23 THE PRESIDENT: The witness will resume
24 his place in the ~~court~~...

25 (Whereupon, the witness was excused.)

1 MR. HARRIS: This concludes the presenta-
2 tion of evidence on behalf of HASHIMOTO, Kingoro.
3 Mr. Lazarus is ready to proceed.

4 THE PRESIDENT: Mr. Lazarus.
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1 MR. LAZARUS: Mr. President and Members of
2 the Tribunal:

3 The defense of the accused HATA, Shunroku,
4 will, like the evidence which the prosecution con-
5 tends points the finger of guilt at the accused, be
6 very brief.

7 At no time has the prosecution introduced
8 any evidence quoting any speeches, pamphlets, books,
9 etc., of the accused, nor has it contended HATA joined
10 or was associated with any brotherhood, clique, Rule
11 Association, or other jingoistic society, which might
12 need explaining before the Tribunal. Therefore, we
13 will offer no documents. All of our evidence will be
14 by witnesses appearing in court.

15 The defense evidence is based almost entirely
16 on page 16,826 of the record, where in answer to our
17 motion for dismissal, Mr. Comyns Carr states that
18 the prosecution contends the accused HATA "partici-
19 pated in Japan's overall aggression in three different
20 ways: (1) He carried out aggressive warfare in China
21 at two different periods as commander of various
22 armies in China. (2) As Minister of War from 30
23 August 1939 to 22 July 1940, he helped determine the
24 national policy and worked on plans and preparation
25 for aggressive war during that period; and (3) He was

1 one of the prime movers in the overthrow of the Yonai
2 Cabinet, thus giving new direction and expansion to
3 the entire conspiracy" and the recently raised issue
4 of General HATA's alleged implication in the Doolittle
5 trial.

6 The first point - aggression in China as
7 commander of armies in China, we deem unworthy of an-
8 swer and leave entirely to the Tribunal to determine
9 whether the profession of arms in the service of one's
10 country is an act of aggression merely because after
11 the outbreak of war the career soldier is high enough
12 in rank to act as "commander of various armies". We
13 will direct our evidence to points 2 and 3.

14 We will through the chiefs of the Personnel
15 Section of the War Ministry show that appointment of
16 General MUTO to his position and recommendation of
17 General TOJO as succeeding War Minister were made in
18 accordance with immemorial custom in the Japanese
19 Army's system for promotions and appointments, after
20 the decisions for the above actions were made by the
21 proper authorities and forwarded to the War Minister
22 for his appropriate and perfunctory action.

23 With reference to the trial of the Doolittle
24 fliers, we will trace the whole chain of events from
25 their capture in China to their delivery in Tokyo for

1 trial, to their return to Shanghai for trial by the
2 13th Army Headquarters there, not HATA's Expedition-
3 ary Army Headquarters, to the schism in Tokyo between
4 the General Staff and the War Ministry, with the former
5 insisting on death for all fliers, to the promulgation
6 in Tokyo of a new military law for trial of fliers
7 who raided the Japanese homeland or Japanese con-
8 trolled areas in China and the decision to apply the
9 promulgation of the new law, to the decision of the
10 General Staff in Tokyo that it alone would review
11 the decision of the Doolittle fliers' trial, pass
12 final judgments, make all announcements as to trial,
13 sentence, execution of sentence, and finally, to the
14 arriva^l in China of a special emissary direct from
15 Tokyo to make sure the trial was held, after HATA's
16 announcement that he would treat the fliers as POW's
17 instead of subjecting them to trial by military court.
18 This series of events will be traced by two witnesses,
19 one from China, one from Tokyo, both of whom took
20 part in the drama, to show HATA never was involved
21 in the trial as a protagonist and the lengths to which
22 he went to fight the holding of the trial.
23

24 With reference to the second point made by
25 the prosecution, the evidence to be produced will
show that far from working on plans and preparations

1 for aggressive war, General HATA consistently fought
2 against that very thing.

3 1. General UGAKI will testify that he gives
4 full credit to General TATA, then a colonel, for the
5 success of his readjustment of the numerical strength
6 of the Japanese Army when he, UGAKI, was War Minister.

7 2. Became War Minister in the ABE Cabinet
8 by special circumstances after the Three Chiefs'
9 Council had selected another man of their own choosing.

10 3. On becoming War Minister in the ABE
11 Cabinet, issued an order forbidding participation
12 of army officers in politics and ordering them to
13 stick to soldiering.

14 4. Ordered the Kempeitai to cease all parti-
15 cipation in politics.

16 5. When his order of "no politics" was dis-
17 obeyed by a colonel who attacked the United States
18 and England in a speech, crying "Down with those
19 countries", HATA ordered his return to Tokyo, repri-
20 manded him severely, then transferred him to an out-
21 lying post.

22 6. This Tribunal and history will learn for
23 the first time that in 1939 HATA, as War Minister,
24 began secret (because the terms he wanted to give
25 China were opposed by everyone around him) negotiations

1 for a Sino-Japanese peace with Generalissimo Chiang
2 Kai-shek. Because of the opposition to the terms
3 HATA wanted to give to the Chinese, the negotiations
4 had to be carried out undercover and the preliminary
5 steps were made by signal codes. HATA's part of the
6 bargain was to be "the evacuation of all Japanese
7 troops from China." During the negotiations, to
8 show his good faith to the negotiators on the Chinese
9 side, who at first couldn't believe a sincere attempt
10 was being made to bring about peace, HATA, still as
11 War Minister, reduced the number of Japanese troops
12 in China from 900,000 to 500,000 when he made up his
13 budget. However, the reduction of troops was bitterly
14 opposed by the General Staff and the final figure of
15 Japanese troops was reduced to between 600,000 and
16 650,000.

17 7. It will be testified that "If General HATA
18 had remained in office as War Minister, I do not have
19 any doubt that a successful peace treaty would have
20 been concluded. However, not long after General HATA
21 had suddenly resigned his office, the negotiations came
22 to an end".

23 8. In 1940, when HATA was War Minister, the
24 question arose of the use of Chinese prisoners in the
25 coal mines in Japan. Because of HATA's opposition,

the plan fell through.

1
2 9. In 1942, when HATA was Commander in China,
3 the plan to use Chinese prisoners in Japan's coal mines
4 again came up, and again, because of HATA's opposition,
5 the plan fell through.

6 10. It will be testified that in 1941, while
7 Commander in China, HATA sent his Chief of Staff, Gen-
8 eral USHIROGU, to Tokyo as his personal emissary to
9 express HATA's views on his, HATA's, "opposition to any
10 road or action which might lead to trouble with America
11 or the British Empire."

12 11. In 1944, when General UGAKI went to China
13 to try to seek a Sino-Japanese peace, General HATA en-
14 couraged and supported him. The same UGAKI, who has
15 been a prosecution witness, will testify that when in
16 1937 he tried to form a cabinet but was thwarted by
17 those who opposed him because he, with the help of HATA,
18 had reduced the numerical strength of the Japanese army,
19 HATA was one of his choices for War Minister had he been
20 able to form a cabinet in that crucial time.

21 With respect to the third point of the prose-
22 cution, that the accused HATA "was one of the prime
23 movers in the overthrow of the YONAI Cabinet, thus giving
24 new direction and expansion to the entire conspiracy",
25 the prosecution relies on the undisputed fact that the

1 YONAI Cabinet was a conservative, anti-war, anti-
2 Tripartite Pact Cabinet, that HATA suddenly resigned
3 as War Minister, as a result of which resignation the
4 the YONAI Cabinet fell. From his resignation, although
5 no statements of the accused HATA are introduced, be-
6 cause in fact he made none, the prosecution deduces
7 that the accused HATA was in favor of the TriPartite
8 Pact and was opposed to the YONAI Cabinet and its poli-
9 cies. But where is the Foreign Minister who could tell
10 this Tribunal whether or not his policies were opposed
11 by HATA? Where is the Prime Minister who could inform
12 the Tribunal whether or not HATA opposed or supported
13 his Cabinet and its policies? They both live in Tokyo
14 but neither one was called by the prosecution. We will
15 remedy this greivous oversight on the part of the prose-
16 cution and we will produce both Premier YONAI and For-
17 eign Minister ARITA and the Tribunal will hear the full
18 story of HATA's position in the Cabinet.
19

20 This Tribunal and history will learn for the
21 first time the amazing inside story of the smashing
22 of the YONAI Cabinet and the downfall of General HATA
23 who never again held high government office, who was
24 definitely not one of the seven who were decorated by
25 Germany for their part in the Tri-Partite Pact, and fi-
nally, who was exiled to China for almost four years so

1 that he could not again stand in the way of those who
2 broke him as War Minister.

3 The following facts will be proven:

4 1. That HATA consistently opposed and had
5 made known to the Foreign Minister his unalterable op-
6 position to the Tri-Partite Pact or any tie with the
7 Germans as early as the days of the HIRANUMA Cabinet,
8 both on personal grounds and the grounds that the Pact
9 would antagonize the Anglo-Saxon countries.

10 2. That it was well known in army circles
11 that HATA was opposed to the Tri-Partite Pact.

12 3. That at the time of his fall as War Min-
13 ister in the YONAI Cabinet "HATA was War Minister in
14 name only because his successor had already been de-
15 cided upon in the army circles" and "so strongly was he
16 opposed by those around him that his orders were not
17 being obeyed".

18 4. That HATA was in full accord with the
19 YONAI Cabinet policies and supported it completely.

20 5. That both Premier YONAI and Foreign Min-
21 ister ARITA, though they did not know what had caused
22 HATA's sudden resignation, believed his resignation to
23 have been forced upon him and beyond his control.

24 6. That those who favored the Tri-Partite
25 Pact planned to kill and succeeded in killing two birds

1 with one stone - getting HATA out of the government
2 and smashing the YONAI Cabinet because both stood in
3 the way of the signing of the Pact.

4 7. Because of HATA's support of the YONAI
5 Cabinet and its Anti-Tri-Partite Pact stand and his
6 plan as shown by his 1940 War Ministry budget to re-
7 duce radically and finally to withdraw Japanese troops
8 altogether out of China and bring about peace with China
9 in that manner, rather than use German pressure on China
10 to force China to sign a peace treaty, it was decided
11 to force HATA to resign as War Minister by express de-
12 mands of the Chief of the Imperial General Staff himself.
13 His Royal Highness, Prince KANIN.

14 8. It will be shown that after a series of
15 conferences between members of the General Staff and the
16 Vice-Minister of War, General ANAMI, it was decided that
17 "there was no alternative but to change the present
18 Cabinet".

19 9. It will be shown that this decision was
20 stated to be "not the opinion of General HATA, but it
21 was the opinion of the Vice-Minister and the men below
22 him in the War Ministry".

23 10. When the decision had been made to over-
24 throw the YONAI Cabinet by the method of removing its
25 War Minister, HATA, from office, Prince KANIN stated

1 "that he was truly sorry for the War Minister that
2 such an extreme measure had to be taken, but one must
3 bear this for the good of the country in such a vital
4 national affair".

5 11. Prince KANIN ordered the Vice-Chief of
6 Staff to write the letter to HATA, the Prince signed
7 it, ordered the Vice-Chief of the General Staff himself
8 to deliver the letter to HATA.

9 12. The letter was delivered to HATA by the
10 Vice-Chief of the General Staff and bowing to the in-
11 evitable after the orders from the Imperial Palace,
12 HATA resigned as War Minister, the YONAI Cabinet fell,
13 the second KONOYE Cabinet came in with no place in it
14 for HATA and in two months the Tri-Partite Pact was
15 signed.
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1 Mr. President, my co-counsel, Dr. KANZAKI,
2 will introduce the first witness.

3 THE PRESIDENT: Counsel KANZAKI.

4 MR. KANZAKI: I now call the witness UGAKI,
5 Kazushige.

6 - - -

7 I S S E I U G A K I, recalled as a witness on
8 behalf of the defense, having been previously
9 sworn, testified through Japanese interpreters
10 as follows:

11 DIRECT EXAMINATION

12 THE PRESIDENT: You are still on your former
13 oath.

14 MR. KANZAKI: I will ask the witness his name
15 and address.

16 THE WITNESS: My name is UGAKI, Issei; my
17 address: Izu, Nagaoka, Shizuoka Prefecture.

18 MR. KANZAKI: I request that the witness
19 be shown defense document 2212.

20 BY MR. KANZAKI:

21 Q Mr. Witness, is this your affidavit and have
22 you signed it?

23 A This affidavit was prepared by me.

24 Q Is it signed by you? Does your signature
25 appear on the document?

1 A Yes.

2 Q Are the contents true and accurate?

3 A No mistake.

4 MR. KANZAKI: I submit defense document 2212.

5 THE PRESIDENT: Mr. Sutton.

6 MR. SUTTON: May it please the Tribunal,
7 the prosecution objects to and moves the Tribunal to
8 reject this affidavit on the following grounds: As
9 to the first paragraph, there is no charge against
10 the defendant HATA for any acts committed prior to
11 1920, and any evidence as to his actions prior to that
12 time is irrelevant and immaterial. As to the second
13 paragraph the witness has heretofore testified, exhibit
14 No. 163, record, page 1605-1635, as to his effort and
15 failure to form a cabinet in 1937. We respectfully
16 submit that he should not be allowed to repeat this
17 testimony. The last sentence in this paragraph is
18 further objected to as speculative and based upon
19 some contingency which never occurred. What the wit-
20 ness had in mind to do or might have done had the
21 circumstances been different is quite irrelevant.

22 The third paragraph states that the witness
23 heard a rumor and purports to give the thoughts of the
24 witness on the nature of the action based on this
25 rumor.

1 In the fourth paragraph the third sentence
2 is argumentative and gives the opinion of the wit-
3 ness, and the remainder of that paragraph is objected
4 to as containing character evidence. There is no
5 objection to the first sentence in the last paragraph
6 although it appears to be immaterial. The last
7 sentence in this paragraph falls under the rule which
8 excludes character evidence and is objected to on that
9 ground. We respectfully submit that such a small
10 portion of this affidavit is free from substantial
11 objection that it should be rejected in its entirety.

12 THE PRESIDENT: Dr. KANZAKI.

13 MR. KANZAKI: In drawing up this affidavit
14 some parts may be construed to seem as if they express
15 the opinions of the witness; however, it merely states
16 facts. The affidavit states the position of HATA in
17 the Japanese army and what duties he carried out. It
18 expresses fundamental explanations that HATA was not
19 in favor of aggression nor was he a militarist. We
20 are attempting to confirm that the positions held by
21 HATA and UGAKI were similar and that their ideals
22 were also similar. In order to establish a fact
23 sometimes it is inevitable that the past should be
24 invoked. Therefore, at other times in the court
25 reference has been made to the years 1904 and 1912,

1 and on one occasion the prosecution even went to the
2 extent of referring to Japanese history. The years
3 1926 and 1928 were important for the accused and
4 therefore it is necessary that this period be referred
5 to in the affidavit.

6 THE PRESIDENT: By a majority the objection
7 is sustained and the document admitted only to the
8 extent of the second sentence in the last paragraph.
9 It is the second last sentence; it could be said the
10 first sentence in the last paragraph.

11 CLERK OF THE COURT: Defense document
12 No. 2212 will receive exhibit No. 31--

13 MR. KANZAKI: Mr. President, I have a request
14 to make. I am not quite sure which part was admitted.

15 THE PRESIDENT: I will read the part so
16 there will be no question about it: "Once in 1944
17 when I went to China trying to bring about peace
18 between China and Japan, HATA learned of my arrival
19 in China and he sent me a letter encouraging me in my
20 efforts to bring about peace between the two countries."

21 That is the part admitted and there is no
22 need to read it again.

23 CLERK OF THE COURT: Defense document No. 2212
24 will receive exhibit No. 3196.
25

(Whereupon, the document above

UGAKI
MIYANO

DIRECT
DIRECT

28,867

1 referred to was marked defense exhibit
2 No. 3196 and received in evidence.)

3 MR. KANZAKI: You may cross-examine.

4 MR. SUTTON: The prosecution does not desire
5 to cross-examine the witness.

6 THE PRESIDENT: The witness is released on
7 the usual terms.

8 (Whereupon, the witness was excused.)

9 MR. KANZAKI: I now call MIYANO, Masatoshi,
10 to the stand.

11 - - -

12 M A S A T O S H I M I Y A N O, called as a witness
13 on behalf of the defense, being first duly sworn,
14 testified through Japanese interpreters as fol-
15 lows:

16 DIRECT EXAMINATION

17 BY MR. KANZAKI:

18 Q Mr. Witness, state your name and address.

19 A My name is MIYANO, Masatoshi; my address is
20 912 Higashi, Oizumi-cho, Nerima, Tokyo.

21 MR. KANZAKI: May the witness be shown defense
22 document 2565?

23 Q* Mr. Witness, will you examine the document
24 and say whether that is your affidavit and whether you
25 have signed it?

1 A This is my affidavit and I have signed it.

2 Q Are the contents true and correct?

3 A Yes.

4 MR. KANZAKI: I submit defense document 2565
5 in evidence.

6 THE PRESIDENT: Mr. Sutton.

7 MR. SUTTON: May it please the Tribunal, the
8 prosecution objects and moves to strike out the second
9 answer on page 2 which refers to a document not pro-
10 duced or its absence accounted for; and the prosecution
11 objects to the nine words, the last of the second
12 complete answer on page 4, beginning with "by which"
13 and ending with "decision"; and finally--

14 THE PRESIDENT: We cannot find that last one.

15 MR. SUTTON: The second complete answer on
16 page 4.

17 THE PRESIDENT: We have it.

18 MR. SUTTON: And finally, we object to the
19 last question and answer at the bottom of page 4 as
20 the opinion and conclusion of the witness.

21 THE PRESIDENT: Dr. KANZAKI.

22 MR. KANZAKI: Page 9 of the Japanese text,
23 the defense has no objection to its being stricken.
24

25 THE PRESIDENT: I do not think you can object
to any of them being stricken, personally.

1 MR. KANZAKI: Yes, your Honor; we have no
2 objection.

3 THE PRESIDENT: The objection is sustained
4 and the document admitted to the extent not objected
5 to on the usual terms.

6 CLERK OF THE COURT: Defense document 2565
7 will receive exhibit No. 3197.

8 (Whereupon, the document above
9 referred to was marked defense exhibit
10 No. 3197 and received in evidence.)

11 MR. KANZAKI: I shall now read exhibit 3197:

12 "Affidavit of General MIYANO, Masatoshi.

13 "Q When the Doolittle fliers were captured, who
14 captured them?

15 "A Two aircraft landed in China, one in the
16 area of the 13th Army and one in the area of the 11th
17 Army, and when this was reported the order was given
18 by the Chief of the General Staff in Tokyo to send
19 those fliers to Tokyo immediately.

20 "Q Did they all go to Tokyo together, those
21 caught by the 11th Army and the 13th Army?

22 "A All together, at the same time.

23 "Q Did they all come back to China together?

24 "A Yes.

25 "Q When they came back to China from Tokyo, where

were they sent?

1 "A Shanghai.

2 "Q When the fliers were brought back to
3 Shanghai, did any orders come with them as to what
4 should be done?

5 "A The order was that those fliers were to be
6 tried by the Chir Expeditionary Force, which did
7 not mean China Expeditionary Force Headquarters.

8 "Q What did the order state?

9 "A The order was in two parts. One part stated
10 that a new military law for the treatment of fliers
11 who raided Japanese areas had been created and
12 ordered us to post the new law in accordance with a
13 copy that was attached to the order. The second part
14 ordered that the fliers be tried by military court in
15 accordance with the new military law which was con-
16 tained in the first part of the order.

17 "Q When was the order notifying you of the
18 creation of the new military law received?

19 "A 28 July 1942.

20 "Q Then what happened?

21 "A General HATA was opposed to trying the fliers
22 by military law, instead, he wanted to treat them as
23 prisoners of war. He stated to his Chief of Staff,
24 and I heard this because I was sitting there at the
25

1 time, that it was his intention to give the fliers
2 as generous consideration as possible. He said that
3 if Tokyo insisted that the fliers be tried under the
4 new military law, he, HATA, would give them the
5 lightest possible or the most generous possible de-
6 cision at the trial. He stated that if there were
7 any slightest extenuating circumstances to be taken
8 into consideration, he would take them into considera-
9 tion and pass them as light a sentence as possible.
10 He stated it was his intention to treat the fliers
11 generously.

12 *****

13 "Q Then what happened?

14 "A Later I found out that the 13th Army decided
15 that there was not enough evidence to try the fliers --

16 THE PRESIDENT: No, that is out. It is the
17 one before that is not out. I think that Mr. Sutton
18 did misdescribe that question though; but, nevertheless,
19 it is the following question that is out. You have
20 omitted a question which you may read: "What happened
21 next? A. Since the China Expeditionary Force" and
22 so forth. Read that.

23 THE INTERPRETER: All right, sir.

24 MR. KANZAKI (Continuing):

25 "Q What happened next?

1 "A Since the China Expeditionary Force
2 Headquarters did not have any military court in its
3 organization and since Tokyo had sent the fliers
4 directly to Shanghai, it was decided that the trial,
5 if it had to be held, would be held by the 13th Army
6 whose headquarters were in Shanghai. Because General
7 HATA opposed the idea of trying the American fliers
8 by a military court, instead of ordering the 13th
9 Army to proceed with the trial, he ordered the 13th
10 Army to investigate whether or not the fliers would
11 be tried by military law or could be treated as
12 prisoners of war."

13 THE PRESIDENT: Omit the next question and
14 answer.

15 THE INTERPRETER: Yes, sir.

16 DR. KANZAKI (Continuing):
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1 "Q Did General HATA ever himself or your head-
2 quarters receive any answer from the 13th Army saying
3 that the evidence was not sufficient to hold a trial?

4 "A No.

5 "Q What happened next?

6 "A When General HATA expressed his intention of
7 generous treatment of those fliers to Lt. General
8 USHIROGU, his Chief of Staff, Lt. General USHIROGU
9 on the same day wrote a letter to the Vice-Chief of
10 the General Staff in Tokyo, General TANABE, stating the
11 intentions of General HATA and asking the intentions of
12 the Tokyo Central Authorities. The letter was forward-
13 ed to Tokyo by messenger on an airplane the very same
14 day.

15 "Q Then what happened?

16 "A As a result of the letter sent by Lt. General
17 USHIROGU to the Tokyo Central Authorities stating the
18 intentions of General HATA, Colonel ARISUE came all
19 the way from Tokyo as emissary from the Chief of the
20 General Staff and expressed the desires of the Chief of
21 the General Staff, which were: To carry out the trial
22 in a very strict manner, and that punishment must be
23 very strict. As a matter of fact, the Chief of the
24 General Staff was expecting the death sentence. Further,
25 it was the order of the Chief of the General Staff that

1 the decision of the trial be forwarded to Tokyo immedi-
2 ately for action by Tokyo. The execution of the sen-
3 tence should be stayed until the decision was forwarded
4 from Tokyo after action was taken in Tokyo on the deci-
5 sion of the trial. Further, after execution of sentence,
6 no announcement was to be made by the China Expedition-
7 ary Army Headquarters, but all announcements relative
8 to the trial, sentence and execution of sentence, would
9 be made by Imperial Headquarters in Tokyo. In this con-
10 nection, General HATA stated to Colonel ARISUE that
11 because of the seriousness and the importance of the
12 matter, he wanted the orders from Tokyo in writing.
13 Colonel ARISUE retorted that because of the seriousness
14 of the matter the Chief of the General Staff had decid-
15 ed to forward the orders not in writing but by his
16 personal emissary, Colonel ARISUE himself, and that
17 there was no more reliable way of conveying those
18 orders than by the use of high ranking officer courier.

19 "Q After General HATA forwarded the orders of
20 Tokyo that the fliers should be tried, what further
21 action did he take with relation to the trial?

22 "A No further action.

23 "Q Did he appoint the members of the tribunal?

24 "A No.

25 "Q Did he appoint the prosecutor?

1 "A No.

2 "Q Did he appoint the defense counsel?

3 "A No.

4 "Q Did he make any appointments for any position
5 with regard to the court or any of its members?

6 "A No, this was not within his province. The
7 trial was to be held by the 13th Army, which had its
8 headquarters in Shanghai, the place to which the
9 fliers had been delivered from Tokyo. With the arrival
10 of Colonel ARISUE with a complete set of orders from
11 Tokyo that they were to be tried by military court,
12 which military court did not exist in the Headquarters
13 of the China Expeditionary Force which was located in
14 Nanking, control of all matters in the trial was out
15 of our hands. As the Headquarters of the China Expe-
16 ditionary Force, we were now the channel through which
17 all orders relative to the trial would pass and would
18 be forwarded on to the 13th Army in Shanghai.

19 "Q Did HATA make known to the 13th Army his
20 intention to treat the fliers generously?

21 "A No, because he had already been told by the
22 emissary of the Chief of the General Staff what the
23 intentions and desires were of the Chief of the General
24 Staff. HATA as a subordinate could not make any recom-
25 mendations of his own. If no orders had been received

1 from Tokyo as to the intentions and desires of the
2 General Staff, then General HATA as the highest author-
3 ity of the Japanese Army in China would have been per-
4 mitted to express his desires to the 13th Army. But
5 since he had been told directly by the emissary of the
6 High Command, Colonel ARISUE, what the Tokyo authori-
7 ties desired, he had to control his own desires as to
8 their treatment or the demands to be made for sentence.
9 However, General HATA still did not give up his hope
10 of giving the fliers a light sentence because there
11 was still the order to forward to Tokyo immediately
12 the decision of the trial. Then again, the execution
13 of sentence was to be stayed until the decision of
14 Tokyo was made known. On these two points General
15 HATA thought Tokyo would consider the matter carefully
16 and might mitigate the sentence or might do something
17 different after their minute consideration of the
18 entire case, so General HATA put every expectation on
19 the further decision of the Tokyo people.

20 "Q Why didn't General HATA, when he received the
21 decision from Shanghai and then forwarded it to Tokyo
22 as per instructions, make any recommendation to Tokyo
23 to treat these people generously?

24 "A Since it had been ordered that the final de-
25 cision would be made in Tokyo, General HATA could not

1 suggest nor was it permissible for General HATA to
2 suggest again and again to his superiors in Tokyo
3 what they should do or to offer his recommendations.
4 His intentions of treating the fliers in a generous
5 manner had already been communicated to Tokyo through
6 his Chief of Staff and that was the reason why Tokyo
7 had dispatched Colonel ARISUE as emissary of the Gen-
8 eral Staff direct to HATA to notify him of the con-
9 trary intentions of the Tokyo Central Authorities.
10 General HATA had good reason to expect, since he knew
11 that his personal intentions were known to the General
12 Staff and since they had ordered that execution of
13 sentence be stayed until further order should be
14 given by Tokyo they would mitigate the sentences.
15 Indeed, he was correct in this because later the deci-
16 sion came from Tokyo saving the lives of five of the
17 fliers.

18 "Q How had General HATA'S intentions to treat
19 these fliers in a fair manner become known to Tokyo?

20 "A When General HATA had disclosed his intentions
21 to his Chief of Staff, Lieutenant General USHIROGU,
22 Lieutenant General USHIROGU had reported it to the
23 Vice-Chief of the General Staff in Tokyo and had
24 asked the intentions and desires of the General Staff.
25 That is how the intentions of General HATA became known

1 to the General Staff and as a result of this knowledge,
2 Colonel ARISUE was dispatched to Nanking to give the
3 orders and the desires of the Chief of the General
4 Staff for the conduct of the trial to General HATA."

5 Skipping the next.

6 "Q When the fliers were tried by military court
7 under the newly promulgated military law promulgated
8 by Tokyo and ordered posted in China, what decision
9 was open to the court to make?

10 "A It could find the fliers guilty or it could
11 acquit them."

12 THE PRESIDENT: Only a part of the preceding
13 answer was objected to.

14 MR. KANZAKI: "Q At any time during the
15 entire proceedings was General HATA as Commander of
16 the Japanese Armies in China permitted or authorized
17 to exercise any discretion in the setting up of the
18 Tribunal, its members, recommendation to them of a
19 decision?
20

21 "A No. With the arrival of Colonel ARISUE, the
22 entire matter was handled directly in accordance with
23 orders from Tokyo and in the same manner as if the
24 trial had been held in Tokyo. The only difference was
25 that Tokyo had sent the fliers back to Shanghai and

1 had ordered the trial held there. Everything, includ-
2 ing decision to hold the trial, the law under which
3 the trial was to be held, the review of the sentence
4 of the tribunal, the time as to the execution of the
5 sentences and even the announcement of the trial and
6 its sentence and the execution of the sentence were
7 all handled by Tokyo. At no time were we permitted
8 or were we in any position to alter or change any of
9 those decisions or to offer our own recommendations.
10 From the very beginning after the fliers were captured
11 by the 11th Army and the 13th Army, Tokyo assumed con-
12 trol of the entire matter. They were ordered to Tokyo
13 for questioning and examination and then when that
14 was finished the fliers were returned to Shanghai and
15 the order arrived that their trial should be held in
16 China."

1 "1. I was born on 1st of January 1898
2 at 3218 Nagotomura, Jinsokigan, Hiroshima Prefecture,
3 and am now living at 912 Oizumimachi Nerimaku, Tokyo.

4 "2. Gist of personal history is as follows:
5 May 1918, graduated Military Academy; December 1918,
6 commissioned 2d Lieutenant; March 1941, Member of
7 Staff of China Expeditionary Forces, at the time
8 Colonel; March 1943, Director of Reserve Officer's
9 Training School, at the time Major General; July 1945,
10 Vice-Chief of Staff of Central Area Army, Japan, till
11 termination of war.

12 "3. From March 1941 to March 1943, I was a
13 member of staff of the China Expeditionary Forces and
14 Section Chief of the First Department of Military
15 Staff Office. Referring to the Doolittle Airplane
16 Incident, my Section handled the case because it was
17 an affair concerning the Supreme Command and so I am
18 very conversant with this case."

19 THE PRESIDENT: Mr. Lazarus.

20 MR. LAZARUS: Sir, the President caught the
21 mistake in the middle of page 4 where the question and
22 answer were not properly read. May we have that
23 correction the first thing this afternoon, sir?

24 THE PRESIDENT: You read it, Mr. Lazarus,
25 this time.

1 MR. LAZARUS: Thank you, sir.

2 THE PRESIDENT: Read it after the lunch
3 adjournment.

4 We will adjourn until half-past one.

5 (Whereupon, at 1200, a recess was
6 taken.)

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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: With the Tribunal's permission, the accused KAYA will be absent from the courtroom for the whole of the afternoon session conferring with his counsel.

- - -

MASATOSHI MIYANO, called as a witness on behalf of the defense, resumed the stand and testified through Japanese interpreters as follows:

DIRECT EXAMINATION

THE PRESIDENT: Mr. Lazarus.

MR. LAZARUS: Sir, I will read the question and that part of the answer which had been allowed by the Tribunal but was inadvertently omitted in the reading.

"Q Now at any time did General HATA express if he had his way what his decision would be?

"A I only know that one day he told the Commander of the 13th Army, Lieutenant General SAWADA that, 'I do not know whether you like the sentence of the Tribunal or not, but that is a matter beyond my control.

1 I can do nothing about it."

2 THE PRESIDENT: Dr. KANZAKI.

3 BY MR. KANZAKI (Continued):

4 Q May the witness be shown exhibit 3131.

5 Have you seen it, Mr. Witness?

6 A Yes, I have.

7 Q In the second line are found the words,
8 "With regard to this matter we request your approval."

9 Is this phraseology customarily used in the
10 Japanese Army?

11 A No, I have not seen such phraseology.

12 THE PRESIDENT: Mr. Sutton.

13 MR. SUTTON: May it please the Tribunal, we
14 respectfully submit the language is perfectly plain,
15 and the witness should not be asked to explain it to
16 the Court.

17 THE PRESIDENT: He wasn't. He wasn't asked
18 to explain the language but whether it was customary
19 to use such language. However, he answered.

20 Q What does the original say, Mr. Witness?

21 A In my recollection I think the words, "Some-
22 thing should hereby be done," and I think in the
23 course of translation the phraseology as appears on
24 this document came into being.

25 THE PRESIDENT: What is the point of all this?

1 If there is any question about the propriety of the
2 translation or the correctness of it we can refer it
3 to the language section.

4 MR. KANZAKI: No, this does not concern the
5 translation.

6 Q The phraseology used, "Your approval is
7 requested," what did General HATA request of General
8 SUGIYAMA by this?

9 A I base my statements on my recollections of
10 that time, but when the word "tashi" means, "It hereby
11 must be done," such phraseology is used -- it has the
12 binding effect of an order by the Chief of Staff, the
13 Army General Staff, to the Commander-in-Chief of the
14 China Expeditionary Force.

15 MR. KANZAKI: You may cross-examine.

16 THE PRESIDENT: Mr. Sutton.

17 MR. SUTTON: May it please the Tribunal.

18 CROSS-EXAMINATION

19 BY MR. SUTTON:

20 Q When were the Doolittle fliers captured?

21 A I think five of the men were captured on the
22 19th of April. The remaining three were also, I think,
23 captured on the same day, that is April 19. But head-
24 quarters did not know about them until the 21st.

25 Q Was report made to General HATA's headquarters

1 of the capture of these fliers?

2 A Yes, the report was made.

3 Q By whom?

4 A The Commander of the 13th Army and the
5 Commander of the 11th Army.

6 Q Do you have a copy of that report?

7 A I do not.

8 Q To whom was the order given by the Chief
9 of the General Staff in Tokyo to send the fliers to
10 Tokyo?

11 A I do not know whether the telegram was
12 addressed by the Vice-Chief of General Staff to the
13 Chief of Staff of the Expeditionary Force or from the
14 Chief of the Army General Staff to General HATA, but
15 at any rate the purport was that it was sent by the
16 Chief of the Army General Staff to General HATA.

17 Q Where were the fliers kept in China before
18 they were brought to Tokyo?

19 A The five Doolittle fliers who were captured
20 in the area under the command of the 11th Army were
21 sent within two days after their capture to Nanking,
22 where they were held for two days by the Kempei-Tai
23 in Nanking. The three remaining fliers who were
24 captured by the 13th Army were sent to Shanghai, and
25 if I am not mistaken were held by the Kempei-Tai in

1 Shanghai, but they were shortly sent to Tokyo.

2
3 Q Were the fliers who were kept in Nanking
4 lodged in the Nanking military prison?

5 A I have neither an accurate recollection or
6 knowledge of where they were kept in Nanking -- I
7 have no recollection either of the reason or the loca-
8 tion of the place where they were held in Nanking.

9 Q Was the Nanking military prison under the
10 command of General HATA?

11 A Yes.
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1 Q Did General HATA have jurisdiction over the
2 gendarmerie units in China?

3 A Yes, he did.

4 Q During the time that these fliers were kept
5 in China before they were brought to Tokyo, were they
6 not given the water cure, kicked, and slapped?

7 A I do not know.

8 Q Was not Lieutenant Neilsen, N-e-i-l-s-e-n,
9 handcuffed and hung on a peg on the wall until he
10 became unconscious?

11 A I do not know anything of the kind.

12 Q And was not Lieutenant Hallmark, H-a-l-l-m-a-r-k,
13 put on a stretching machine and his limbs stretched
14 apart?

15 THE PRESIDENT: Mr. Lazarus.

16 MR. LAZARUS: Mr. President, I did not object
17 after the first question, but once the witness has
18 stated that he does not know, I think it is futile to
19 continue on this basis, and I offer my objection on
20 that ground, sir.
21

22 THE PRESIDENT: Evidence of alleged confessions
23 by two Americans of those names was given, and I think
24 it is within the scope of the affidavit. More details
25 could be given, of course, to endeavor to refresh the
witness' memory, and on that ground those questions

1 should be allowed.

2 A I will now answer. Let me reply to that
3 question. Matters of such a kind were completely out-
4 side the knowledge of the general headquarters at that
5 time, and I believe that General HATA also was unaware
6 of such incidents or instances, and I furthermore feel
7 that -- and it was not until now that he has ever heard
8 of that.

9 Q Were not these fliers under the command of
10 General HATA until they were brought from China to Tokyo?

11 A Yes, they were under his jurisdiction.

12 Q How long were they kept in Tokyo.

13 A In Tokyo?

14 Q Tokyo.

15 A Over three months.

16 Q When were they brought to Tokyo?

17 A I do not remember the date exactly, but I
18 think it was around the 25th or 26th of April.

19 Q And while in Tokyo, were they not kept in
20 solitary confinement?

21 A I do not know.

22 Q Were they not kept in leg irons all the time
23 and not permitted to wash or shave or remove their
24 clothing, and were beaten, kicked and slapped?

25 A We at general headquarters of the China

1 Expeditionary Force received no information of any
2 kind about them, and I have no way of replying to that
3 question. It was completely outside of our knowledge.

4 Q You state in the last sentence of your affi-
5 davit that you are very conversant with this case.
6 Were the fliers not forced to sign papers without being
7 told their contents, and which had not been read to
8 them?

9 MR. LAZARUS: Mr. President, this witness has
10 stated that he was in China at all times, he was in
11 GHQ under General HATA in China, and he stated he does
12 not know what went on in Tokyo. Now, this is
13 absolutely futile, this line of questioning, I very
14 respectfully submit.

15 THE PRESIDENT: You can always test what his
16 knowledge is. But he does not seem to have any know-
17 ledge, or he professes not to have any, and it may be
18 a waste of time to pursue this cross-examination.

19 Q When were the fliers returned to the command
20 of General HATA in China?

21 A The end of July.

22 Q Where were they imprisoned on their return
23 to China?

24 A The gaol of the Japanese gendarmerie in
25 Shanghai.

1 Q I suggest to you that they were returned to
2 China on June 18, 1942, Does that refresh your
3 recollection?

4 A I said that these fliers were sent back to
5 China toward the end of July. But I may be mistaken
6 in my recollection.

7 Q By whom was the order issued directing that
8 the fliers be tried by the China Expeditionary Force?

9 A The order was issued by the Chief of the Army
10 General Staff.

11 A You have stated that you had no means of
12 knowing how they were treated in Japan. Did you have
13 means of knowing how they were treated in China under
14 the command of General HATA?

15 A We had the means to know, but I do not think
16 we were able to be informed of all the circumstances
17 and the facts.

18 Q Did you make any effort to ascertain the
19 true facts?

20 A At that time, operations were in progress
21 in China and only officers who were assigned to take
22 charge of the investigation, handling, et cetera, of
23 these fliers were connected with the affair, and
24 general headquarters did not know all the details or
25 particulars which would enable me to speak of such

1 details.

2 Q Did not your section handle the case?

3 A Yes, we handled the business routine, but we
4 had no direct -- we did not engage ourselves directly
5 in the substance of the investigation of matters of
6 that kind. With regard to the investigation and
7 study of the matter involving the Doolittle fliers,
8 General HATA ordered the 13th Army to take over the
9 matter. After that order was issued, the 13th Army
10 took charge of the investigation and study of the
11 matter to find out whether the conditions were suffi-
12 cient to bring these fliers before a military court.
13 And the 13th Army has not reported the particulars
14 as to what steps the 13th Army took as a result of
15 its investigation.

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Q Did the order, which you state you received from Tokyo, direct that the fliers be put on trial, or was it an order applicable to all fliers who were captured in China?

A The text of the order was to the effect that this order was to be applied generally to all fliers captured in China, but a verbal explanation was added to the effect that that ruling must be applied immediately to the Doolittle fliers.

Q Is the --

THE PRESIDENT: He said something that has not been translated.

A (Continuing) General HATA had a letter of his sent to the Chief of Staff in Tokyo expressing his disagreement with the idea of placing these fliers on trial before a military court, and it was after the Chief of the Army General Staff received that letter that the order was sent out by that same Army Chief of Staff that the Doolittle fliers should be placed on trial.

And, in so far as placing the Doolittle fliers on trial before a military court was concerned, there was no room for General HATA to make any alterations or changes or any other steps concerning the trial.

1 MR. SUTTON: I ask that the witness be
2 shown exhibit 1992.

3 Before that, I will ask one question.

4 Q When was the letter sent from General HATA's
5 headquarters to Tokyo?

6 A It was around the 30th of July.

7 MR. SUTTON: May the witness be shown ex-
8 hibit 1992?

9 (Whereupon, a document was handed
10 to the witness.)

11 Q Is that the order which you referred to as
12 having been received from Tokyo authorizing the trial
13 of these fliers by the China Expeditionary Forces?

14 A No, this particular document here was pre-
15 pared by the War Office establishing a regulation as
16 to the handling of the Doolittle fliers and is not
17 concerned with the question of placing these fliers
18 on trial before a military court. What I have been
19 talking about previously was an order sent by the
20 Vice-Chief of Staff in Tokyo in the name of the Chief
21 of the Army General Staff ordering the trial, which
22 order was sent by the General Staff office in Tokyo
23 to the China Expeditionary Force.

24 Q What is the date of the order which you have
25 in your hand, exhibit 1992?

1 A July 28.

2 MR. SUTTON: May the witness be shown ex-
3 hibit 1993?

4 (Whereupon, a document was handed
5 to the witness.)

6 Q Is this one of the orders to which you
7 referred?

8 A Yes.

9 Q And, what is the date of the order, exhibit
10 1993?

11 A July 28.

12 Q Were any further orders issued from Tokyo
13 with regard to the trial of these fliers?

14 A I do not think there were any further orders,
15 but verbal orders were transmitted from the Chief of
16 the Army General Staff through Colonel ARISUYE.

17 Q Did the order, received by General HATA from
18 Tokyo, direct that the fliers be tried by a military
19 court?

20 A Yes.

21 Q Then, will you please explain why, as you
22 stated on page 2 of your affidavit, that General HATA
23 ordered the 13th Army to investigate whether or not
24 the fliers would be tried by military law or treated
25 as prisoners of war?

1 MR. LAZARUS: Mr. President, I respectfully
2 submit that the entire sentence should be read to the
3 witness; not just the second half, but the first
4 half, and I will proceed to do so. "Because --"

5 THE PRESIDENT: You cannot do that.

6 I think you ought to do it, Mr. Sutton, but --

7 MR. LAZARUS: I will ask him to do it, sir.

8 Q Was it because General HATA was opposed to
9 the idea of trying the fliers by a military court?

10 A I do not know the meaning of the question.

11 Q Did General HATA order the 13th Army to set
12 up a military tribunal to try these fliers?

13 A There was no such piecemeal orders. The
14 general instructions issued by General HATA to the
15 13th Army was in connection with the prospective trial
16 of the Doolittle fliers before a military court. The
17 13th Army was first to investigate into the conditions
18 and circumstances to find out whether or not a mili-
19 tary court trial -- the conditions would warrant a
20 military trial of these fliers, and other necessary
21 matters.

22 General HATA furthermore issued a general
23 order to the 13th Army to the effect that they must
24 not conduct -- establish or conduct a military trial
25 of these fliers pending orders from the Commander in

1 Chief of the China Expeditionary Force. Meanwhile,
2 he communicated to Tokyo to the effect that he was
3 opposed to conducting a military trial of these fliers.

4 Q When did he communicate to Tokyo? He said

5 A As I have said before, toward the end of
6 July.

7 and meanwhile communicated to Tokyo his personal
8 objection to the whole idea that as a consequence of
9 the fact that his objections were not accepted in
10 Tokyo, he had no alternative but to issue an order for
11 the conduct of the trial. I may have misunderstood
12 your questions, so may I emphasize the main points
13 again.

14 Q You will please answer my question. Did
15 General HATA order the 13th Army to set up a military
16 tribunal to try these fliers?

17 A Mr. LAZARUS: That has been answered, Mr.
18 President and he said "yes."

19 THE PRESIDENT: So he understood.

20 Mr. Austin.

21 Q Did not General HATA order General SAKAKI,
22 the Commanding General of the 13th Army to try the
23 fliers under the provisions of an order issued by
24 General HATA on 13 August, 1942?

25 A Yes.

MR. JUSTICE: May the witness be sworn again?

1 Q I ask you again: Did General HATA order
2 the 13th Army to set up a military tribunal to try
3 these fliers?

4 A No. Such phraseology was not used. He at
5 first directed the 13th Army to prepare for a military
6 trial and meanwhile communicated to Tokyo his personal
7 objection to the whole idea that as a consequence of
8 the fact that his objections were not accepted in
9 Tokyo, he had no alternative but to issue an order for
10 the conduct of the trial. I may have misconstrued
11 your questions, so may I emphasize the main points
12 again.

13 Q You will please answer my question. Did
14 General HATA order the 13th Army to set up a military
15 tribunal to try these fliers?

16 MR. LAZARUS: That has been answered, Mr.
17 President and he said "yes."

18 THE PRESIDENT: So we understood.

19 Mr. Sutton.

20 Q Did not General HATA order General SAWADA,
21 the Commanding General of the 13th Army to try the
22 fliers under the provisions of an order issued by
23 General HATA on 13 August, 1942?

24 A Yes.

25 MR. SUTTON: May the witness be shown exhibit

1991.

(Whereupon, a document was handed
to the witness.)

Q Is that Military Ordinance No. 4 of the
Japanese Expeditionary Forces in China providing for
the punishment of enemy fliers, dated 13 August, 1942?

A Yes, that is so.

Q And was that issued by General HATA as Command-
ing General of the Japanese Expeditionary Forces in
China?

A Yes.

Q Were not the Doolittle Fliers tried and con-
victed under this military ordinance issued by General
HATA?

A Yes.

Q Did General SAWADA request General HATA to
give him the order in writing to try the fliers?

A It was supposed to have been given in writing.

Q And did not General HATA give to General SAWADA
an order to try the fliers?

A Yes, he sent the order.

MR. SUTTON: I desire to respectfully refer
the Tribunal to the testimony of SAWADA which appears
in the record, page 27,452.

Q When was the trial held?

1 A Around the 20th of August. I do not remember
2 the exact date.

3 Q Was any counsel provided for the fliers at
4 that trial?

5 A No counsel was provided in accordance with
6 the provisions establishing the military court.

7 May I add that it is Japanese military reg-
8 ulationsthat neither General HATA nor Lieutenant-General
9 SADAWA could make any modifications or changes providing
10 for a counsel for the defense for the fliers.

11 Q Were the fliers told the charges on which they
12 were being tried?

13 A I understand that they were told the charges
14 that were leveled against them.

15 Q Is it not a fact that they were not given an
16 opportunity to plead either "guilty" or "not guilty"?

17 A Plea guilty or not guilty by whom?

18 Q Is it not a fact -- The question was: Is it
19 not a fact that they were not given the opportunity to
20 plead either "guilty" or "not guilty"?

21 A How the trials were conducted I am not aware,
22 nor have I any knowledge of the particulars.

23 Q Was not the only evidence presented a report
24 on the damages from Tokyo, and a statement of the alleged
25 confessions taken in Tokyo?

1 MR. LAZARUS: I hesitate to object, Mr.
2 President, but the witness has just stated he knows
3 nothing of any of the particulars of the trial and
4 it is futile to pursue this line of questioning. I
5 object to it.

6 THE PRESIDENT: That is so. Ordinarily when
7 a witness says he doesn't know anything about a matter
8 you cease cross-examination, unless you have a good
9 reason to feel that he does know something. Then the
10 court may exercise a little discretion in the matter.

11 MR. SUTTON: I have only one --

12 THE PRESIDENT: What do you suggest he knows
13 about the trials, Mr. Sutton?

14 MR. SUTTON: I have only one more question
15 on that, sir, and I ---

16 THE PRESIDENT: In his position would he see
17 any reports of what happened at the trial.

18 Did you read any reports of the trial in the
19 course of your duty?

20 THE WITNESS: Yes, I have. But, I do not
21 recall the details.

22 BY MR. SUTTON (Continued):

23 Q And did not --

24 THE PRESIDENT: Now, there is a foundation for
25 testing his memory, for refreshing it, if you can.

1 Q (Continuing) And were not the papers which
2 were presented at the trial read in Japanese and not
3 translated?

4 A That I do not know.

5 Q And did not the entire proceedings for the
6 trial and conviction of the eight fliers consume less
7 than eight hours -- less than two hours?

8 (There was no response.)

9 Q Did General HATA receive a report of this
10 trial?

11 A Yes.

12 Q Did the report show the circumstances surround-
13 ing the trial and conviction of these eight fliers?

14 A Yes, it does; but no reports were made to the
15 Commander in Chief of the China Expeditionary Forces
16 as to the manner in which the trial was conducted.

17 Q What did the reports show?

18 A The judgment and the reason for the judgment.

19 Q What reasons were given for the judgment?

20 A In the reasons -- among the reasons it was
21 stated that these fliers both in Tokyo and Nagoya
22 machine gunned primary school children and bombed
23 civilian homes which could be very clearly distinguished
24 from military objects.

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1 Q Did the report show the evidence, if any,
2 introduced at the trial?

3 A I think they were written in the text.

4 Q Did General HATA investigate the circum-
5 stances surrounding the trial?

6 A No investigations were made after the conclu-
7 sion of the trial.

8 Q Why was the report sent to General HATA?

9 A Reports to be sent to Tokyo were channeled
10 through General HATA's headquarters.

11 Q Did the report show that one of the convicted
12 fliers was a navigator?

13 A I have no positive recollection at the present
14 moment.

15 Q Did not the order of General HATA under which
16 these men were tried, issued 13 August 1942, provide
17 "Under special circumstances the execution of mili-
18 tary punishment shall be remitted."

19 MR. LAZARUS: Mr. President, that exhibit is
20 already in evidence, including the quotes just made now,
21 and I don't think it is necessary to repeat it. He
22 can ask any questions he wants based on that exhibit
23 without quoting from it.
24

25 THE PRESIDENT: If he can't trust his own
recollection, he can quote from the exhibit, within

1 reason.

2 MR. SUTTON: I desire to question directly on
3 that language. May the witness answer the question?

4 A Yes, that is so provided.

5 Q Did General HATA at any time after the trial
6 suggest any special circumstances in mitigation of
7 punishment?

8 A Inasmuch as General HATA had already communi-
9 cated his position on the matter, that is to say, his
10 objections to the trial, to the central military authori-
11 ties; and inasmuch as he was on very intimate terms
12 with the Chief of the Army General Staff, having gradu-
13 ated from the military academy in the same year; and
14 inasmuch as General HATA placed his confidence in the
15 views he had already set forth to the central military
16 authorities, and because he had other reasons, he
17 felt that there was no need to write another recommen-
18 dation in order to realize what he had wanted to rea-
19 lize, and therefore found no need to go into further
20 investigations to find reasons for making further
21 recommendations to the central military authorities.

22 Q Did General HATA at any time after the trial
23 recommend that sentence be commuted?
24

25 THE PRESIDENT: Mr. Sutton, unless you want
an amplification of what he says in his affidavit,
this cross-examination is not really essential.

1 Q Did General HATA request the prosecutor of
2 the 13th Army to ask for the death sentence for these
3 fliers?

4 A I do not know.

5 Q Did you testify in the trial of SAWADA and
6 others, held in Shanghai in February of 1946, in which
7 the defendants were charged with the unlawful trial
8 and punishment of the Doolittle fliers?

9 A Yes, I did testify.

10 Q Was General HATA a defendant at that trial?

11 A No, he was not an accused.

12 Q Were SAWADA and the other defendants in that
13 trial all convicted?

14 A Yes.

15 Q And did you not swear in the SAWADA trial
16 in Shanghai as follows? I quote:

17 "Q Did Nanking issue any orders to the 13th Army
18 in regard to the treatment of the fliers?"

19 "A I do not remember.

20 "Q Was the trial of the Doolittle fliers ordered
21 by General HATA to be tried at Shanghai?

22 "A Yes.

23 "Q Did you mean by your previous answer that
24 HATA requested the 13th Army prosecutor to ask for the
25 death penalty?

1 "A He requested so.

2 "Q (to Interpreter) Will you interpret that
3 answer again?

4 "Interpreter: He said 'He requested so.'

5 "Q That the sentence be executed?

6 "A He requested so.

7 "Q Does he mean that the General requested so?

8 "A Yes, HATA.

9 "Q Did General HATA request the prosecutor of
10 the 13th Army to ask for the death sentence?

11 "A He requested the death sentence."

12 A In the document that was just read to me,
13 there were words to the effect that a demand was made
14 for the execution of the sentence or something to
15 that effect, but no such demand was actually made.
16 I didn't say that.

17 With regard to the request made, the so-called
18 request made by General HATA to the prosecutor to
19 demand the death penalty, my statement, the state-
20 ment I actually made was that such a demand was
21 supposed to have been made. I said at that trial
22 that since an order had come from the chief of the
23 Army General Staff, that order was supposed to have
24 been delivered, but at the trial in Shanghai, SAWADA
25 said that he had not heard of that before. Neither

1 did any of his co-defendants say that they heard it
2 before. The fact is they had not heard of it before,
3 and so I will have to revise my recollection on this
4 matter and say that I do not know.

5 THE PRESIDENT: We will recess for fifteen
6 minutes.

7 (Whereupon, at 1445, a recess
8 was taken until 1500, after which the
9 proceedings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Sutton.

4 BY MR. SUTTON (Continued):

5 Q My question to you, and for purposes of
6 clarity I will repeat it, was whether or not the
7 questions which I read to you and the answers which
8 I read to you were the questions put to you in the
9 court in Shanghai and the answers given by you in
10 the court in Shanghai under your oath. I suggest
11 that you may answer the question yes or no.

12 A I cannot reply.

13 Q I put to you two short questions with the
14 answers and ask if these two questions were not
15 asked you at that trial and the answers given as I
16 shall quote to you:

17 "Q Did you mean by your previous answer that
18 HATA requested the 13th Army prosecutor to ask for
19 the death penalty?

20 "A He requested so."

21 Was that question asked you and that answer
22 given by you in the trial of SAWADA when you were
23 testifying in the SAWADA trial in Shanghai? I will
24 appreciate it if you will answer yes or no.

25 A That is not so.

1 Q I ask you one other short question and read
2 you what I understand to be the answer. The question:
3 "Did General HATA request the prosecutor of the 13th
4 Army to ask for the death sentence?" The answer:
5 "He requested the death sentence." Was that ques-
6 tion asked you in the SAWADA trial in Shanghai, and
7 was that answer given by you to that question in the
8 SAWADA trial in Shanghai? You may answer yes or no.

9 A It is somewhat different.

10 THE PRESIDENT: Mr. Sutton, I am mystified.
11 I thought he answered those questions in the affirm-
12 ative before the recess.

13 MR. SUTTON: To be frank, sir, his answer
14 was so long and evasive that I did not -- could
15 not tell whether it was affirmative or negative.

16 Q Was this question asked you in the trial
17 in Shanghai --

18 A Yes.

19 Q The question: "What was the contents of
20 the other one (order) from the Minister of War?

21 A I do not remember.

22 Q And did you not make an answer in the trial
23 in Shanghai in the following language: "The con-
24 tents were, first, that those airmen who violated
25 international law will be handled as criminals.

1 Those who do not violate international law will be
2 handled as prisoners of war. Those that are sus-
3 pected of violating international law will be placed
4 before a military tribunal and their crimes asserted."
5 Did you make that reply to a question asked you at
6 the SAWADA trial in Shanghai?

7 A Yes.

8 MR. KEENAN: Mr. President, may I make a
9 suggestion to the Court? At the prosecution's table
10 we listened carefully to the reply of the witness to
11 the last questions before the recess. Our under-
12 standing is not that of the President's. It would
13 be stupid, of course, to put the question to him
14 again if he answered it directly once. We would ask
15 the indulgence of the Court to have that record
16 carefully examined at this time.

17 THE PRESIDENT: The transcript can be
18 examined in due course, and it may not bear me out.
19 If I am wrong in misapprehending a question, today
20 won't be the first time. I do not say for one
21 minute that all my colleagues agree with me as to
22 what was actually said by the witness. They may
23 differ. I have misapprehended answers before, even
24 in this trial, and I have been put right by the
25 transcript. However, we will examine the tran-

1 script in due course, Mr. Chief of Counsel. If any-
2 thing calls for correction, it can be done.

3 MR. KEENAN: Mr. President, very briefly --

4 THE PRESIDENT: Yes.

5 MR. KEENAN (Continuing): -- the matter
6 was so much in doubt that my colleague, Mr. Sutton,
7 asked the stenographer to write out the answer be-
8 fore recess. I suggest, respectfully, to your Honor
9 that, psychologically, this is the time to clear
10 this up with this witness and not after prolonged
11 recess.

12 THE PRESIDENT: Let the court reporter read
13 what was said, very slowly, too.

14 OFFICIAL COURT REPORTER: The last answer
15 before the recess:

16 "A In the document that was just read to me,
17 there were words to the effect that a demand was made
18 for the execution of the sentence or something to
19 that effect, but no such demand was actually made.
20 I didn't say that.

21 "With regard to the request made, the so-
22 called request made by General HATA to the prosecutor
23 to demand the death penalty, my statement, the state-
24 ment I actually made was that such a demand was
25 supposed to have been made. I said at that trial

1 that since an order had come from the chief of the
2 Army General Staff, that order was supposed to have
3 been delivered, but at the trial in Shanghai, SAWADA
4 said that he had not heard of that before. Neither
5 did any of his co-defendants say that they heard it
6 before. The fact is they had not heard of it before,
7 and so I will have to revise my recollection on this
8 matter and say that I do not know."

9 THE PRESIDENT: I was thinking of answers
10 prior to that. Better start at the beginning of
11 this.

12 OFFICIAL COURT REPORTER: (Reading)

13 "Q And did you not swear in the SAWADA trial
14 in Shanghai as follows? I quote:"

15 THE PRESIDENT: Yes.

16 OFFICIAL COURT REPORTER: (Reading)

17 "'Q Did Nanking issue any orders to the 13th
18 Army in regard to the treatment of the fliers?

19 "'A I do not remember.

20 "'Q Was the trial of the Doolittle fliers
21 ordered by General HATA to be tried at Shanghai?

22 "'A Yes.

23 "'Q Did you mean by your previous answer that
24 HATA requested the 13th Army prosecutor to ask for
25 the death penalty?

1 "A He requested so.

2 "Q (To Interpreter) Will you interpret that
3 answer again?

4 "Interpreter: He said "He requested so."

5 "Q That the sentence be executed?

6 "A He requested so.

7 "Q Does he mean that the General requested so?

8 "A Yes, HATA.

9 "Q Did General HATA request the prosecutor of
10 the 13th Army to ask for the death sentence?

11 "A He requested the death sentence.'

12 "A In the document that was just read to me,
13 there were words to the effect that a demand was made
14 for the execution of the sentence, or something to
15 that effect, but no such demand was actually made.
16 I didn't say that.

17 "With regard to the request made, the so-
18 called request made by General HATA to the prosecutor
19 to demand the death penalty, my statement, the state-
20 ment I actually made was that such a demand was
21 supposed to have been made. I said at that trial
22 that since an order had come from the chief of the
23 Army General Staff, that order was supposed to have
24 been delivered, but at the trial in Shanghai, SAWADA
25 said that he had not heard of that before. Neither

1 did any of his co-defendants say that they heard it
2 before. The fact is they had not heard of it before,
3 and so I will have to revise my recollection on this
4 matter and say that I do not know."

5 THE PRESIDENT: One of my colleagues cor-
6 rectly points out now that the expression "That is
7 so" was read from the Shanghai record and not said
8 by the witness here. That is where I was misled.

9 MR. SUTTON: That's right.

10 THE PRESIDENT: Mr. Lazarus.

11 (Whereupon, a discussion was had
12 off the record at the lectern.)

13 THE PRESIDENT: Is that Shanghai record in
14 evidence yet?

15 MR. SUTTON: No, sir.

16 MR. LAZARUS: I suggest, then, Mr. Presi-
17 dent, that the record of the Shanghai trial be put
18 in this record and the Tribunal can then determine.
19

20 THE PRESIDENT: We must leave that to the
21 prosecution. They will put that in at the right
22 time, and we will see to it that they do, but this
23 may not be the right time.

24 MR. SUTTON: My friend's request will,
25 doubtless, be granted in due season.

BY MR. SUTTON (Continued)

1 Q In order that there may be no misunderstand-
2 ing, do you deny having been asked the questions and
3 having given the answers which you have just heard
4 read?

5 A I did not catch on to the last part of the
6 question.

7 (Whereupon, the last question was
8 read by the Japanese court reporter.)

9 A (Continuing) There is one part which I deny.

10 Q Which part?

11 A I deny the fact -- the portion which runs
12 to the effect that General HATA has asked the prose-
13 cutor to ask for the death sentence. I do not --
14 since I did not know the facts, I replied that such
15 a request was supposed to have been made.

16 Q You admit the question; you deny the answer.
17 Is that correct?

18 A That is so.

19 MR. SUTTON: That concludes the cross-examin-
20 ation.

21 MR. LAZARUS: May the witness step down?

22 THE PRESIDENT: My colleague wants this
23 question asked of the witness: Is the remainder,
24 of the part of that question read, correct?
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THE WITNESS: Yes.

MR. LAZARUS: May the witness now step down,
sir?

THE PRESIDENT: He is released on the usual
terms.

(Whereupon, the witness was ex-
cused.)

MR. LAZARUS: The next witness, if the Tri-
bunal please, will be Admiral YONAI. His document
No. is 2044.

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1 MITSUMASA YONAI, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. LAZARUS:

6 Q Will the witness please state his full name?

7 A YONAI, Mitsumasa.

8 MR. LAZARUS: May document 2044 please be
9 shown the witness?

10 (Whereupon, a document was shown to
11 the witness.)

12 THE PRESIDENT: There is no need to read the
13 whole affidavit, surely.

14 Q Is that your affidavit?

15 A Yes.

16 Q We offer in evidence defense document 2044,
17 and by agreement with Mr. Sutton of the prosecution,
18 we will omit the last three lines of the last paragraph:

19 MR. LAZARUS (reading:) "I was a member of var-
20 ious Japanese Governments over a period of years and
21 since 1937 I held the following positions:"

22 THE PRESIDENT: Wait a minute.

23 Admitted on the usual terms.

24 MR. LAZARUS: Oh, I am sorry.

25 CLERK OF THE COURT: Defense document 2044
will receive exhibit No. 3198.

(Whereupon, the document above referred to was marked defense exhibit 3198 and received in evidence.)

MR. LAZARUS (Reading:) "1. Navy Minister for the Cabinets of HAYASHI, KONOE (1st Cabinet), HIRANUMA AND SUZUKI.

"2. Prime Minister from January 16, 1940 to July 21, 1940.

"When the Incident of the Marco Polo Bridge broke out on July 7, 1937, I was the Navy Minister in the 1st KONOE Cabinet. Just at this time General HATA was the Commander in Chief of the Japanese Forces on the Island of Formosa (Taiwan) and it is needless to say that neither the forces in Formosa, nor General HATA had any connection whatsoever with this Incident either in its beginning or later. It was not until February 1938 that General HATA first went to China, when he was appointed Commander in Chief of the Japanese Forces in Central China.

"During the period from January 16, 1940 to July 21, 1940, when I was the Prime Minister, General HATA, Shunroku was the War Minister at the time. With respect to the Tri-Partite Pact with the Axis countries, my Cabinet was completely opposed to it and for this reason this question did not even once come up in our

Cabinet conferences.

"It appeared that there was an atmosphere and a feeling in army circles to make good use of Germany in settling the China Incident, but in my Cabinet, no attention was paid to this at all. The Cabinet was simply disregarding such a possibility.

"Coming to this question and to General HATA who was my War Minister, he earnestly cooperated with my Cabinet's policy and, of course, naturally was opposed to the Pact. And so, as my Cabinet opposed and excluded such a pact with Germany and also because it was not pro-German, a desire to overthrow my Cabinet came into being.

"Those who opposed my Cabinet were endeavoring to kill two birds with one stone; that is, to have General HATA, who was opposed to the Tri-Partite Pact, resign from the government and simultaneously to overthrow the Cabinet. Eventually, their plan was carried out and their objective was obtained -- two birds killed with one stone. When General HATA resigned, I believed and felt that his resignation was not of his own free will but that he was forced to resign by elements he was powerless to fight and today I am more convinced than ever that my beliefs then were correct.

1 "I asked HATA to recommend someone to be the
2 next War Minister. HATA immediately went out saying
3 that the successor would be decided in the Three Chiefs'
4 Conference. This Conference was composed of the Chief
5 of Staff, the Inspector General of Military Education,
6 and the War Minister. It was their duty to name the
7 new War Minister. He returned in the evening looking
8 very worried and said there was no man who would be
9 the successor to the post. His face looked very pensive
10 because he was conscious that this lack of the succes-
11 sor would become the cause of the fall of the Cabinet --
12 consequently he himself would be the cause. I read
13 this feeling in his face, and after the general resig-
14 nation of the Cabinet, called HATA to my room and said,
15 as nearly as I can remember: 'I can understand your
16 situation -- you have suffered very much. As for me,
17 however, I do not blame you at all. I understand.
18 Take it easy and do not worry.' I shook his hand and
19 HATA smiled a sad smile -- a smile of resignation,
20 peculiar to a Japanese. His situation was indeed a
21 pitiful one.

22
23 "General HATA, as far as I know, never was a
24 member of any clique, association, brotherhood, society
25 or other jingoistic or ultra-militaristic group,
either in the army or in politics. In fact, HATA at

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1 all times severely avoided politics."

2 You may ask.

3 THE PRESIDENT: Mr. Sutton.

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CROSS-EXAMINATION

1 BY MR. SUTTON:

2 Q Admiral, what point of view concerning the
3 conclusion of a military alliance between Japan and
4 Germany did HATA, Shunroku, support?

5 A He was opposed.

6 Q Do you recall that you were interrogated
7 by an officer of the Soviet Republic on the 15th of
8 May, 1946?

9 A Yes, I do recall.

10 Q And on that occasion was not this question
11 asked you, I quote: "Q. What point of view concern-
12 ing the conclusion of a military alliance between
13 Japan and Germany did HATA, Shunroku, support"?

14 A I do not recall.

15 Q Wasn't an answer given by you to that question
16 on that occasion as follows: "A. HATA, Shunroku,
17 thought that the conclusion of a treaty between Japan
18 and Germany at that time would be advantageous to
19 Japan."
20

21 THE PRESIDENT: What is the answer to that
22 last question?

23 THE INTERPRETER: There was no answer to the
24 last question, your Honor.

25 A I have never made such a reply.

1 Q Did the YONAI cabinet in which you were
2 Premier at any time during the latter part of its
3 existence take steps to strengthen the ties between
4 Japan, Germany and Italy?

5 A No.

6 Q Were not joint conferences held in July
7 1940 between the War, Navy and Foreign Ministries
8 on strengthening the harmony between Japan, Germany
9 and Italy?

10 A I do not know anything about it.

11 Q Had not the Foreign Office given instruc-
12 tions to Ambassador SATO sometime prior to 12 July
13 1940 to confer with German authorities upon strength-
14 ening the coalition between the two countries?

15 A I do not know anything about it.

16 Q And had not Ambassador SATO exchanged views
17 with Ribbentrop?

18 A No.

19 Q As a result of this conference did not the
20 Foreign Office in your cabinet prepare a plan for a
21 coalition between Japan and Germany?

22 A I do not know anything about it.

23 THE MONITOR: Mr. Prosecutor, do you mean
24 "SATO" or "SAITO"?
25

MR. SUTTON: S-A-T-O.

1 Q And was not this plan presented to the
2 joint conference of the representatives of the War,
3 Navy and Foreign Ministries in your cabinet on 12
4 July 1940?

5 A I have never heard of that.

6 Q Did not this plan provide for intimate con-
7 nection between the two nations and mutual assistance
8 in diplomatic and economic affairs?

9 A No, I might state, as a matter of fact, now
10 that in my cabinet there was no discussion whatsoever
11 about a Japan-German alliance nor any discussion about
12 it.

13 Q And did not the plan provide that Germany
14 would recognize Japan's sphere of influence and
15 political leadership in French Indo-China, the Dutch
16 East Indies, and the South Seas area?

17 MR. LAZARUS: Mr. President, the witness
18 has definitely stated he knew nothing about it, it
19 had never come to his attention. This is a very, very
20 poor stratagem continually used all day by the prosecu-
21 tion to get into the evidence again what has gone
22 into the record once even after the witness has said,
23 "I don't know anything about it." I respectfully
24 submit it should be stopped.
25

THE PRESIDENT: This question has arisen

1 before today. Where the prosecution feel that the
2 witness should know, where they may have information
3 to justify some persistence in these questions, they
4 are warranted in persisting; but it would appear from
5 the attitude of the witness that he is determined to
6 disclaim any knowledge, Mr. Sutton, and you might
7 save our time by not cross-examining further and
8 giving us the references to the documents, unless
9 you are going to ask about documents not already in
10 evidence and those documents are in evidence, I think.

11 MR. SUTTON: Yes, sir.

12 THE PRESIDENT: One, at least, of my
13 colleagues thinks that you should persist but my
14 personal feeling is you are going to get the same
15 answer all the time and it will be thrown back on
16 the exhibits. However, others of my colleagues think
17 differently, so--

18 MR. SUTTON: With the permission of the--

19 THE PRESIDENT: I think the majority of my
20 colleagues agree with my statement to you in the first
21 instance; however, these are matters upon which
22 Members of the Tribunal may well differ, Mr. Sutton.

23 As one of my colleagues rightly says, this
24 man was a Prime Minister and he must know what went
25 on in his own cabinet, but he says he did not. Is he

1 going to persist in that? I think he is.

2 MR. SUTTON: With the permission of the
3 Tribunal, I will ask one other question of a similar
4 nature but as to a different date.

5 Q Was not a further meeting of the represent-
6 atives of these three departments of your cabinet,
7 the War, the Navy and the Foreign Ministries, held on
8 16 July 1940?

9 A I do not know.

10 MR. SUTTON: If the Tribunal please, the
11 questions are based upon exhibit 527 which appears
12 in the transcript of proceedings, page 6,191, and
13 exhibit 528 which appears in the transcript of pro-
14 ceedings, page 6,212.

15 Q What were the relations between you and
16 General HATA prior to the termination of your cabinet?

17 A We were on very good relations.

18 Q Do you recall a four-minister meeting which
19 was held on about 20 July 1940 at which you had a
20 conference in a separate room with War Minister HATA?

21 A I do not.

22 Q Was HATA in favor of the resignation of your
23 cabinet?

24 A May I have the question repeated?

25 (Whereupon, the last question was read

by the official court reporter.)

1 A At first he was not in favor.

2 Q Did you just prior to July 20, 1940 at a
3 conference with War Minister HATA ask the War Minister,
4 and I quote: "Are you aware of the circumstances
5 surrounding the visit of the Vice Minister and the
6 Chief of the Military Affairs Bureau to Chief Secre-
7 tary ISHIWATA urging mass resignation of the cabinet?
8

9 A Yes, but I have not received a report that
10 the Vice War Minister was there.

11 Q And did not the War Minister reply in this
12 conference between you and him: "Yes, I know; however,
13 you must take their opinions as their personal opin-
14 ions"?

15 A He did not say that much but he said some-
16 thing to the effect that he would like to have it
17 considered as purely private opinions.

18 Q And did not you upon that occasion ask the
19 War Minister in this, or substantially this, language:
20 "Then what do you think"?

21 A I didn't ask any such question.

22 MR. LAZARUS: Mr. President, I respectfully
23 submit that the witness should be told where this is
24 supposed to be coming from. It is not purported to be
25 a direct quote from himself at any time and he should

1 not have to continue like this unless he knows who
2 is alleged to have taken down his words verbatim or
3 from what source this comes.

4 THE PRESIDENT: He should be told the time
5 and the place and the person to whom the statement
6 was made; nothing more.

7 Q And when you asked the War Minister the
8 question, "Then what do you think?" did not the War
9 Minister reply in this language: "In the long run
10 I think it best that the cabinet resign; however,
11 this is still my personal opinion"?

12 A He did not say anything of the kind.

13 THE PRESIDENT: It is now four o'clock. We
14 will adjourn until half-past nine on Monday morning.

15 (Whereupon, at 1600, an adjournment
16 was taken until Monday, 22 September 1947,
17 at 0930.)
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